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3
4 BEFORE THE CITY COUNCIL
5 OF THE CITY OF LAS VEGAS, NEVADA

6 * * *

7 IN THE MATTER OF:

8 DEPARTMENT OF FINANCE AND
9 BUSINESS SERVICES on behalf of the
CITY OF LAS VEGAS,

10 Petitioner,

11 vs.

12 SNICK'S PLACE, INC., dba
13 SNICK'S PLACE;
DOMINICK RALPH VITALE,

14 Respondents.
15

**COMPLAINT FOR
DISCIPLINARY ACTION**

16 The DEPARTMENT OF FINANCE AND BUSINESS SERVICES, on behalf of the
17 CITY OF LAS VEGAS, NEVADA ("Department" or "City"), Petitioner, makes this
18 Complaint for Disciplinary Action against SNICK'S PLACE, INC., dba SNICK'S PLACE
19 ("SNICK'S PLACE"); and DOMINICK RALPH VITALE ("VITALE"), together referred to
20 as RESPONDENTS ("Respondents"), 1402 South Third Street, Las Vegas, Clark County,
21 Nevada, and states:

22 Respondents hold a Tavern License No. L16-00134-4-000843; a Restricted Gaming
23 License No. G01-00410-4-000843; a Convention Hall Gaming Tax License No. C20-00410-7-
24 000843; a Coin Amusement Machine License No. C08-01083-2-000843.

25 **SUMMARY OF ALLEGATIONS**

26 Snick's Place is located at 1402 South Third Street, Las Vegas, Nevada holds, among
27 other licenses, a restricted gaming license, a privileged license and is incorporated under the
28

1 laws of the State of Nevada and Vitale being the sole shareholder, officer and director of the
2 business and was licensed as such on or about July 18, 2001.

3 Beginning on or about April 29, 2008 and continuing until present, Respondent failed
4 to prevent certain unlawful conduct to occur within the premises of the business and became
5 subject to license revocation/suspension proceedings initiated by the State of Nevada Gaming
6 Control Board as well as the City.

7 On or about December 30, 2008, a complaint (NGC Case No. 08-14) was filed against
8 the Respondents by the State of Nevada before the Nevada Gaming Commission to which the
9 Respondents admitted the violations of state law by stipulation dated March 9, 2009. The
10 stipulated settlement agreement was accepted by the Nevada Gaming Commission and became
11 effective by its Order, dated March 19, 2009. Respondents' state licenses were suspended and
12 an agreed to fine in the amount of \$50,000.00 was imposed. Other conditions also were
13 included in the settlement.

14 **SPECIFIC FACTUAL STATEMENT**

15 On or about April 29, 2008, two patrons of Snick's Place engaged in sexual
16 intercourse. The action set out above took place in the public portion of Snick's Place. This
17 was in an area for which the bartenders on duty were responsible. The RESPONDENTS failed
18 to prevent the action set out above.

19 On or about April 30, 2008, one patron of Snick's Place masturbated another patron.
20 The action set out above took place in the public portion of Snick's Place. This was in an area
21 for which the bartenders on duty were responsible. The RESPONDENTS failed to prevent the
22 action set out above.

23 On or about April 30, 2008, two patrons of Snick's Place performed oral sex on each
24 other. The action set out above took place in the public portion of Snick's Place. This was in
25 an area for which the bartenders on duty were responsible. The RESPONDENTS failed to
26 prevent the action set out above.

27 On or about May 1, 2008, two patrons of Snick's Place completely disrobed and one
28 proceeded to masturbate the other. The action set out above took place in the public portion of

1 Snick's Place. This was in an area for which the bartenders on duty were responsible. The
2 RESPONDENTS failed to prevent the action set out above.

3 On or about May 1, 2008, two patrons of Snick's Place crawled across the bar. One
4 was completely naked, and the other was wearing only underwear. As the patron wearing
5 only underwear crawled across the bar, the bartender pulled the patron's underwear down.
6 The second patron to crawl across the bar met the first patron to crawl across the bar at the end
7 of the bar where the first patron performed oral sex on the second patron while talking to the
8 bartender. The action set out above took place in the public portion of Snick's Place. This
9 was in an area for which the bartenders on duty were responsible. The RESPONDENTS
10 failed to prevent the action set out above.

11 On or about June 22, 2008, a patron of Snick's Place patron performed oral sex on
12 another patron. The action set out above took place in the public portion of Snick's Place.
13 This was in an area for which the bartenders on duty were responsible. The RESPONDENTS
14 failed to prevent the action set out above.

15 On or about June 22, 2008, a patron of Snick's Place exposed his genitals and then
16 went into the women's restroom with two other patrons and participated in various sexual
17 activities. All activities set out above, with the exception of the allegations taking place in the
18 women's restroom, took place in the public portion of Snick's Place. This was in an area for
19 which the bartenders on duty were responsible. The RESPONDENTS failed to prevent the
20 action set out above.

21 STANDARD OF EVIDENCE, SUBSTANTIVE LAW AND PENALTY

22 A. STANDARD OF EVIDENCE

23 LVMC § 6.88.090 provides:

24 (A) The hearing need not be conducted according to
25 technical rules relating to evidence and witnesses. Any
relevant evidence may be admitted.

26 (B) The respondent shall have the right to call and
27 examine witnesses on his own behalf, cross-examine opposing
28 witnesses, introduce exhibits and evidence relevant to the issues
of the case, and offer rebuttal evidence.

1 (C) The respondent may be called and examined by the
2 City.

3 (D) The Clerk shall have the power to issue subpoenas for
4 witnesses to appear to give testimony. [Emphasis added.]

5 **B. SUBSTANTIVE LAW**

6 The Las Vegas Municipal Code mandates that the licensee is responsible for actions in
7 their business.

8 LVMC § 6.06.010 relates the importance of a high degree of supervision of privileged
9 licenses/licensees:

10 The provisions of this chapter apply to those businesses,
11 which are found by the City Council to require a high degree of
12 supervision and to more seriously affect the economic, social and
13 moral well-being of the City and its residents. These businesses
14 have been commonly referred to as "privileged" and require City
15 Council approval for a license.

16 LVMC § 6.02.370 further explains the import of license violations to the public, in
17 pertinent part:

18 The doing of any act for which a license is required or the
19 violation of any provision of this Title is declared to be **unlawful**
20 **and harmful to the safety, welfare, health, peace and morals of**
21 **the residents and taxpayers of the City** and constitutes a public
22 nuisance per se, [Emphasis added.]

23 LVMC § 6.02.350 in part states:

24 A licensee under this Title shall be subject to disciplinary
25 action not only for acts or omissions done by such licensee but
26 also for acts and omissions done by the principals, managers,
27 agents, representatives, servants or employees of such licensee.

28 LVMC § 6.02.330 (B) and (H) provides for appropriate disciplinary action to be taken
when a licensee has been subject to disciplinary in another jurisdiction:

The licensee may be subject to disciplinary action by the
City Council for good cause, which may, without limitation,
include the following:

. . .

(B) The licensee or any of its principals has been
subject, in any jurisdiction, to disciplinary action of any kind
with respect to a license, an approval for suitability, a permit or a

1 work card to the extent that such disciplinary action reflects upon
2 the qualification, acceptability or fitness of such licensee or
principal;

3 . . .

4 (H) The business activity constitutes, promotes, causes,
5 allows, fosters, aids, or otherwise enables a private nuisance,
public nuisance or chronic nuisance, or has been or is being
6 conducted in an unlawful, illegal or impermissible manner,
including but not limited to causing, allowing, promoting,
7 fostering, aiding, enabling, exercising deliberate ignorance
towards or failing to abate a private nuisance, public nuisance or
8 chronic nuisance

9 LVMC § 10.40.050 provides:

10 Every person who wilfully and lewdly either exposes his
11 person or the private parts thereof in any public place, or in any
place where there are present other persons to be offended or
12 annoyed thereby; or procures, counsels or assists any person to
expose himself, or to take part in or make any exhibition of
13 himself to public view, or to the view of any number of persons,
such as is offensive to decency, or is adapted to excite vicious or
14 lewd thoughts or acts, is guilty of a misdemeanor.

15 LVMC § 10.42.060 states:

16 It shall be unlawful to engage in any live sex act,
17 including but not limited to sexual intercourse, oral copulation,
or sodomy, or any said sex act by implication or simulation
18 before an audience, whether it be between a male and female,
male and male, female and female, human being and an animal,
19 or through the means of using an artificial device to simulate any
sexual act of any kind whatsoever.

20 In addition, Nevada Gaming Commission Regulation 5.030 provides:

21 Violation of any provision of the Nevada gaming Control
22 Act of these regulations by a licensee, his agent or employee shall
be deemed contrary to the public health, safety, morals, good
23 order and general welfare of the inhabitants of the State of
Nevada and grounds for suspension or revocation of a license.
24 Acceptance of a state gaming license or renewal thereof by a
licensee constitutes an agreement on the part of the licensee to be
25 bound by all of the regulations of the commission and the same
now are or may hereafter be amended or promulgated. It is the
26 responsibility of the licensee to keep himself informed of the
content of all such regulations, and ignorance thereof will not
27 excuse violations.

28

1 **C. PENALTY**

2 LVMC § 6.02.360 provides:

3 Upon a showing of good cause and in the discretion of the
4 City Council, disciplinary action against a holder may take the
5 form of cancellation, **revocation**, refusal to renew, **suspension**,
6 imposition of conditions or **restrictions** or civil **fine** in an amount
7 not to exceed one thousand dollars for each day that the violation
8 which forms the subject matter of the complaint that recommends
9 such disciplinary action is demonstrated to have been in
10 existence, or any combination of such actions, as the particular
11 situation may require. The Council may also impose against the
12 licensee the actual costs incurred, and a reasonable amount for
13 attorney's fees, resulting from the imposition of disciplinary
14 action. The disciplinary actions available in this Section shall be
15 in addition to, and not exclusive of, any other civil or criminal
16 remedy which otherwise might be available. [Emphasis added.]

17 LVMC § 6.50.010 provides:

18 The City Council declares that this Liquor Control
19 Chapter is an exercise of the regulatory powers delegated to the
20 City Council pursuant to the City Charter and NRS 268.090,
21 inter alia. The regulations contained in this Chapter involve, to
22 the highest degree, the economic, social, physical and moral
23 well-being of the residents and taxpayers of the City. The sale or
24 other disposition of alcoholic beverages is not a matter of right
25 but of privilege, which would otherwise be unlawful if it were
26 not exercised pursuant to a license. This privilege may be denied,
27 revoked, conditioned, suspended or subjected to any other
28 disciplinary action by the City in the exercise of its police powers
for the protection of the safety, welfare, health, peace and morals
of the residents and taxpayers thereof. Businesses engaged in the
sale or other disposition of alcoholic beverages must therefore
comply with LVMC Chapter 6.06. Nothing in this Chapter shall
be construed to confer any legitimate claim of entitlement to any
benefit which might otherwise devolve upon any licensee or any
person approved for suitability. [Emphasis added.]

29 **SUBSTANTIVE ALLEGATIONS OF COMPLAINT**

30 **COUNT ONE**

- 31 1. Petitioner Department realleges and incorporates by reference as though set
32 forth in full herein all previous paragraphs of this Disciplinary Complaint above.
- 33 2. On or about April 29, 2008, within the public premises of SNICK'S PLACE,
34 INC., dba SNICK'S PLACE; said establishment owned by DOMINICK RALPH VITALE,
35

1 located at 1402 South Third Street, Las Vegas, Clark County, Nevada, two patrons of
2 SNICK'S PLACE engaged in sexual intercourse.

3 3. The conduct occurred in the public portion of SNICK'S PLACE in an area for
4 which the bartenders on duty were responsible. Respondents failed to prevent the action and
5 conduct as stated above.

6 4. This conduct by itself, and in conjunction with the actions complained of in
7 other counts of this complaint, violates the municipal laws of the City of Las Vegas and is
8 harmful to the safety, welfare, health, peace and morals of the residents and taxpayers of the City.

9 5. Respondents' acts and failures to act as set out above are in violation of the Las
10 Vegas Municipal Code §§ 6.02.330 (B)(H), 6.02.350, 6.02.370, 10.40.050, and 10.42.060
11 and, as such, are grounds for disciplinary action.

12 **COUNT TWO**

13 6. Petitioner Department realleges and incorporates by reference as though set
14 forth in full herein all previous paragraphs of this Disciplinary Complaint above.

15 7. On or about April 30, 2008, within the public premises of SNICK'S PLACE,
16 INC., dba SNICK'S PLACE; said establishment owned by DOMINICK RALPH VITALE,
17 located at 1402 South Third Street, Las Vegas, Clark County, Nevada, one patron of
18 SNICK'S PLACE masturbated another patron.

19 8. The conduct occurred in the public portion of SNICK'S PLACE in an area for
20 which the bartenders on duty were responsible. Respondents failed to prevent the action and
21 conduct as stated above.

22 9. This conduct by itself, and in conjunction with the actions complained of in
23 other counts of this complaint, violates the municipal laws of the City of Las Vegas and is
24 harmful to the safety, welfare, health, peace and morals of the residents and taxpayers of the City.

25 10. Respondents' acts and failures to act as set out above are in violation of the Las
26 Vegas Municipal Code §§ 6.02.330 (B)(H), 6.02.350, 6.02.370, 10.40.050, and 10.42.060
27 and, as such, are grounds for disciplinary action.

28

COUNT THREE

11. Petitioner Department realleges and incorporates by reference as though set forth in full herein all previous paragraphs of this Disciplinary Complaint above.

12. On or about April 30, 2008, within the public premises of SNICK'S PLACE, INC., dba SNICK'S PLACE; said establishment owned by DOMINICK RALPH VITALE, located at 1402 South Third Street, Las Vegas, Clark County, Nevada, two patrons of SNICK'S PLACE performed oral sex on each other.

13. The conduct occurred in the public portion of SNICK'S PLACE in an area for which the bartenders on duty were responsible. Respondents failed to prevent the action and conduct as stated above.

14. This conduct by itself, and in conjunction with the actions complained of in other counts of this complaint, violates the municipal laws of the City of Las Vegas and is harmful to the safety, welfare, health, peace and morals of the residents and taxpayers of the City.

15. Respondents' acts and failures to act as set out above are in violation of the Las Vegas Municipal Code §§ 6.02.330 (B)(H), 6.02.350, 6.02.370, 10.40.050, and 10.42.060 and, as such, are grounds for disciplinary action.

COUNT FOUR

16. Petitioner Department realleges and incorporates by reference as though set forth in full herein all previous paragraphs of this Disciplinary Complaint above.

17. On or about May 1, 2008, within the public premises of SNICK'S PLACE, INC., dba SNICK'S PLACE; said establishment owned by DOMINICK RALPH VITALE, located at 1402 South Third Street, Las Vegas, Clark County, Nevada, two patrons of SNICK'S PLACE completely disrobed and masturbated the other.

18. The conduct occurred in the public portion of SNICK'S PLACE in an area for which the bartenders on duty were responsible. Respondents failed to prevent the action and conduct as stated above.

.....

.....

19. This conduct by itself, and in conjunction with the actions complained of in other counts of this complaint, violates the municipal laws of the City of Las Vegas and is harmful to the safety, welfare, health, peace and morals of the residents and taxpayers of the City.

20. Respondents' acts and failures to act as set out above are in violation of the Las Vegas Municipal Code §§ 6.02.330 (B) and (H), 6.02.350, 6.02.370, 10.40.050, and 10.42.060 and, as such, are grounds for disciplinary action.

COUNT FIVE

21. Petitioner Department realleges and incorporates by reference as though set forth in full herein all previous paragraphs of this Disciplinary Complaint above.

22. On or about May 1, 2008, within the public premises of SNICK'S PLACE, INC., dba SNICK'S PLACE; said establishment owned by DOMINICK RALPH VITALE, located at 1402 South Third Street, Las Vegas, Clark County, Nevada, two patrons of SNICK'S PLACE exposed their genitals and one patron performed oral sex on the other.

23. The conduct occurred in the public portion of SNICK'S PLACE in an area for which the bartenders on duty were responsible. Respondents failed to prevent the action and conduct as stated above.

24. This conduct by itself, and in conjunction with the actions complained of in other counts of this complaint, violates the municipal laws of the City of Las Vegas and is harmful to the safety, welfare, health, peace and morals of the residents and taxpayers of the City.

25. Respondents' acts and failures to act as set out above are in violation of the Las Vegas Municipal Code §§ 6.02.330 (B)(H), 6.02.350, 6.02.370, 10.40.050, and 10.42.060 and, as such, are grounds for disciplinary action.

COUNT SIX

26. Petitioner Department realleges and incorporates by reference as though set forth in full herein all previous paragraphs of this Disciplinary Complaint above.

27. On or about June 22, 2008, within the public premises of SNICK'S PLACE, INC., dba SNICK'S PLACE; said establishment owned by DOMINICK RALPH VITALE,

• • • •

1 located at 1402 South Third Street, Las Vegas, Clark County, Nevada, a patron of SNICK'S
2 PLACE performed oral sex on another patron.

3 28. The conduct occurred in the public portion of SNICK'S PLACE in an area for
4 which the bartenders on duty were responsible. Respondents failed to prevent the action and
5 conduct as stated above.

6 29. This conduct by itself, and in conjunction with the actions complained of in
7 other counts of this complaint, violates the municipal laws of the City of Las Vegas and is
8 harmful to the safety, welfare, health, peace and morals of the residents and taxpayers of the City.

9 30. Respondents' acts and failures to act as set out above are in violation of the Las
10 Vegas Municipal Code §§ 6.02.330 (B)(H), 6.02.350, 6.02.370, 10.40.050, and 10.42.060
11 and, as such, are grounds for disciplinary action.

12 COUNT SEVEN

13 31. Petitioner Department realleges and incorporates by reference as though set
14 forth in full herein all previous paragraphs of this Disciplinary Complaint above.

15 32. On or about June 22, 2008, within the public premises of SNICK'S PLACE,
16 INC., dba SNICK'S PLACE; said establishment owned by DOMINICK RALPH VITALE,
17 located at 1402 South Third Street, Las Vegas, Clark County, Nevada, one patron of
18 SNICK'S PLACE exposed his genitals and entered the women's rest room and engaged in
19 various sexual activities performed oral sex on another patron.

20 33. With the exception of the conduct in the ladies' rest room, the conduct occurred
21 in the public portion of SNICK'S PLACE in an area for which the bartenders on duty were
22 responsible. Respondents failed to prevent the action and conduct as stated above.

23 34. This conduct by itself, and in conjunction with the actions complained of in
24 other counts of this complaint, violates the municipal laws of the City of Las Vegas and is
25 harmful to the safety, welfare, health, peace and morals of the residents and taxpayers of the City.

26 35. Respondents' acts and failures to act as set out above are in violation of the Las
27 Vegas Municipal Code §§ 6.02.330 (B)(H), 6.02.350, 6.02.370, 10.40.050, and 10.42.060
28 and, as such, are grounds for disciplinary action.

1 **WHEREFORE**, the Petitioner respectfully requests the City Council to:


2 A. Approve the Complaint for Disciplinary Action and order a disciplinary hearing at
3 which the Respondent shall appear and show cause why the licenses that are the subject of this
4 Complaint should not be suspended or revoked, or other disciplinary action taken; or
5

6 B. Grant such other and further relief as the Council deems appropriate.

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8 DATED this 11th day of August, 2009.

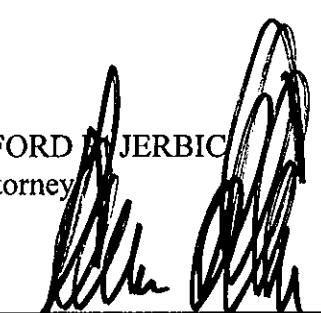
9
10 RESPECTFULLY SUBMITTED:

11
12 By: _____


13 MARK R. VINCENT, Director
14 Finance and Business Services

15
16 BRADFORD R. JERBIC
17 City Attorney

18 By: _____


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